

Message Text

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SUBJ: NAVY TRIAL OF LUIS CORVALAN ET AL

REF: SANTIAGO 1256

1. SUMMARY: FONMINISTER CARVAJAL SAYS REMAINING ALLENDE-ERA FIGURES WILL BE TRIED BY MILITARY COURT UNDER PEACETIME RULES WITH CIVILIAN REVIEW, IF TRIED AT ALL. STATEMENT MAY BE MISINTERPRETED ABROAD. END SUMMARY.

2. FONMINISTER CARVAJAL IN PRESS CONFERENCE FEB 19 MADE COMMENT ON IMPENDING TRIAL BY CHILEAN NAVY OF COMMUNIST PARTY SECYGEN CORVALAN (AND IMPLICITLY GROUP OF OTHER PROMINENT ALLENDE-ERA PERSONALITIES WHO HAVE BEEN HELD WITHOUT CHARGE OR TRIAL SINCE SEPT 1973 COUP.) THIS COMMENT MAY BE MISUNDERSTOOD HERE AND ABROAD, SINCE IT INVOLVES COMPLEXITIES OF MILITARY JUSTICE LITTLE UNDERSTOOD EVEN IN CHILE. CARVAJAL DID NOT CONFIRM THAT THERE WOULD EVEN BE A TRIAL, OF ANY NATURE. HIS COMMENTS LEFT THIS QUESTION OPEN.

3. RESPONDING TO WIRE SERVICE REPORT FROM SPAIN THAT CORVALAN TRIAL WOULD BEGIN MARCN 21 BEFORE MILITARY COURT
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("CONSEJO DE GUERRA"), CARVAJAL WAS QUOTED IN PRESS FEB

20 AS SAYING THAT CORVALAN WOULD NOT BE TIRED IN ANY EVENT BY A "CONSEJO DE GUERRA." THIS TRANSLATES LITERALLY AS "WAR COUNCIL" AND MOST CLOSELY RESEMBLES IN FACT A SUMMARY MILITARY COURT MARTIAL IN TIME OF WAR. SUCH COURTS HAVE MINIMAL REQUIREMENTS FOR LEGAL EXPERIENCE AMONG THEIR MEMBERS, AND APPEAL IS UP THE MILITARY CHAIN OF COMMAND. MOST OF THE SECURITY TRIALS HELD IN CHILE SINCE THE COUP HAVE BEEN OF THIS NATURE.

4. CARVAJAL DID SAY THAT CORVALAN COULD BE TRIED BY A "TRIBUNAL MILITAR," WHICH IS MORE FORMALLY CONSTITUTED COURT WITH MORE STRINGENT REQUIREMENTS FOR LEGALLY TRAINED PERSONNEL, PROCEDURES, ETC. VITAL POINT IS THAT LATTER COURTS OPERATE UNDER RULES OF "TIME OF PEACE," AND THAT APPEAL AND REVIEW ARE ALLOWED BY A MILITARY APPEALS COURT ("CORTE MARCIAL"), CONSTITUTED WITH BOTH MILITARY AND CIVILIAN JUDGES, AND FROM THAT COURT TO THE CIVILIAN SUPREME COURT. A TRIAL ON ARMS VIOLATIONS (REFTTEL), UNDER A LAW IN EFFECT BEFORE THE COUP, WOULD UNDER CURRENT GOC DECREE LAWS BE TRIED UNDER THESE "TIME OF PEACE" CONDITIONS.

5. PROBABLY REFLECTING WIDESPREAD LACK OF UNDERSTANDING OF LAW, CARVAJAL SAID THAT A MILITARY TRIBUNAL WOULD BE MADE UP OF MEMBERS OF THE APPEALS COURT, THE "CORTE MARCIAL." THIS IS AN ERROR.

6. COMMENT: CARVAJAL HIMSELF PROBABLY WAS CONFUSED, AND PRESS MORE SO. AS WE INTERPRET HIS STATEMENT AND PRESS COVERAGE OF IT, NO DEFINITE DECISION HAS YET BEEN MADE TO TRY CORVALAN ET AL, BUT IF THEY ARE TRIED IT WILL BE BY A REGULAR COURT MARTIAL SUBJECT TO THE PEACETIME RULES AND WITH APPEAL TO THE SUPREME COURT PERMITTED. WE WILL NOT BE SURPRISED, HOWEVER, IF STORY IS WIDELY MISINTERPRETED.

7. TO BEST OF EMBASSY'S KNOWLEDGE, CARVAJAL'S STATEMENT IS FIRST OFFICIAL PUBLIC INDICATION THAT CORVALAN ET AL MAY BE TRIED.
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